

**MINUTES OF THE
EXECUTIVE APPROPRIATIONS COMMITTEE**
Tuesday, October 15, 2013 - 1:00 p.m. - Room 445 State Capitol

Members Present:

Sen. Lyle W. Hillyard, Co-Chair
Rep. Melvin R. Brown, Co-Chair
Sen. Jerry W. Stevenson, Vice Chair
Rep. Brad R. Wilson, Vice Chair
Sen. J. Stuart Adams
Sen. Gene Davis
Sen. Patricia W. Jones
Sen. Peter C. Knudson
President Wayne L. Niederhauser
Sen. Karen Mayne
Sen. Ralph Okerlund
Sen. Luz Robles

Rep. Joel K. Briscoe
Rep. Rebecca Chavez-Houck
Rep. Tim M. Cosgrove
Rep. Brad L. Dee
Rep. Gregory H. Hughes
Speaker Rebecca D. Lockhart
Rep. Don L. Ipson
Rep. Jennifer M. Seelig

Staff Present:

Mr. Jonathan Ball, Legislative Fiscal Analyst
Mr. Steven Allred, Deputy Director
Ms. Greta Rodebush, Legislative Secretary

Note: A copy of related materials and an audio recording of the meeting can be found at www.leg.utah.gov.

1. Call to Order/Approval of Minutes

Co-Chair Brown called the meeting to order at 1:40 p.m.

MOTION: Sen. Hillyard moved to approve the minutes of the September 17, 2013 meeting. The motion passed unanimously with Rep. Hughes and Speaker Lockhart absent for the vote.

2 Federal/Non-federal Grants Report

Ms. Jill Flygare, Governor's Office of Management and Budget (GOMB), presented the Federal/Non-federal Grants Report dated October 15, 2013. Under federal grants, there were no new grants, no reapplications/continuations of existing grants, and no revisions of existing grants requiring legislative action. The Governor's Office approved one reapplication/continuation of an existing grant.

Under non-federal grants, there were no new grants, no reapplications/continuations of existing grants, and no revisions of existing grants requiring legislative action. The Governor's Office approved one new grant.

3. Report on Impact of Federal Shutdown

Ms. Juliette Tennert, Budget Director, GOMB, addressed the committee. She introduced Mr. Evan Curtis, Budget and Policy Analyst, GOMB, who provided assistance during the federal shutdown.

Ms. Tennert identified five state agencies with programs impacted by the federal shutdown. They include: the Department of Health, Department of Workforce Services, Labor Commission, Utah State Office of Rehabilitation, and the Utah National Guard. Ms. Tennert invited representatives from each agency to report on specific programs.

Rep. Briscoe asked about the Child Nutrition Program with the Utah State Office of Education (USOE). Ms. Tennert indicated that some emergency funds became available late Friday afternoon and that State Superintendent Menlove would address this issue.

Department of Workforce Services

Mr. Geoff Landward, Deputy Director, Department of Workforce Services, stated that the DWS had built up reserve funds that would allow the department to continue operating the majority of its federal programs without much change in service levels. The department's primary concern though is the Food Stamp Program. Unless the shutdown ends, the Food Stamp Program will cease on November 1, 2013. Mr. Landward stated that the DWS issues about \$30 million in food stamp benefits each month.

Sen. Hillyard said that it would be helpful if the agencies making presentations today would take a look at their programs and determine how much money they would realistically need to keep those programs going without the strings attached to federal funding.

Mr. Landward responded to questions from Rep. Chavez-Houck and Sen. Davis.

Sen. Robles requested information on the number of children vs. adults on food stamps in Utah by zip code.

Department of Health

Ms. Shari Watkins, Finance Director, DOH, addressed the committee. Dr. David Patton, Director, DOH, was also available for questions and comments.

Ms. Watkins discussed the Women, Infants, and Children (WIC) Program, which provides nutrition education, food, and formula to approximately 66,000 moms and children each month. She explained that when the budget period for WIC ended on September 30, 2013, the department was allowed to carry over 3 percent of the leftover funds or \$1.3 million. These funds were insufficient though and the USDA stepped in and provided \$2.5 million in emergency funds to help maintain the program through October 2013. Ms. Watkins expects that there may be some leftover funding to pay for prescription formula. At the end of October, the department will furlough 16 state employees. In addition, a good number of the 270 local agency staffs who work on the WIC program may be furloughed as well.

Ms. Watkins and Dr. Patton responded to committee questions from Rep. Cosgrove, Sen. Mayne, Sen. Jones, Sen. Robles, and Rep. Chavez-Houck.

Mr. Chris Furner, WIC Program Manager, DOH, discussed the basic services WIC offers. He explained that WIC is a supplemental program and that participants often use churches, food banks, and community pantries. Mr. Furner said that if the federal funding does not come through, the program will assist only the most needy, infants and children on prescription formulas, through the month of November.

Mr. Ball explained his office's focus on determining the number of employees who are going to be furloughed between now and the end of November and making sure that their benefits get paid. He said that we have not looked at what the longer impacts of those job losses will be on the economy. Mr. Ball

stated that 625 employees could potentially be furloughed in the next 30 to 60 days. He did not think that the job losses would change the revenue estimates. He felt that the bigger risk maybe the psychological impact of the job losses.

Ms. Tennert stated that there could be some resolution to the federal shutdown sometime this week, and that the GOMB would keep the committee informed and provide a full accounting of each specific lapse in funds.

Utah Labor Commission

Ms. Sherrie Hayashi, Commissioner, Utah Labor Commission (ULC), discussed the impacts of the federal shutdown on the Occupational Safety & Health Program and the Bureau of Labor Statistics. Commissioner Hayashi indicated that the ULC has some reserves it can use but will furlough about 38 Labor Commission employees on November 4 if the shutdown continues. She stated that the ULC has reassigned staff to other positions, eliminated all unnecessary expenditures, asked for voluntary furloughs, and left vacant positions open in an attempt to mitigate furloughs for as long as possible. Commissioner Hayashi stated that the ULC will implement the furloughs on a staggered basis beginning November 4, 2013.

Commissioner Hayashi responded to questions and comments from Rep. Seelig and Sen. Mayne.

Utah State Office of Rehabilitation

Mr. Russell Thelin, Executive Director, USOR, discussed the fiscal impact on Disability Determination Services, a program that oversees the adjudication of individuals applying for SSI and SSDI. This program is 100 percent federally funded. Mr. Thelin stated that reserve funding will keep the program going through October 25, 2013, after which, the USOR may need to furlough staff. The loss in federal dollars has also impacted the Vocational Rehabilitation Program as well. Reserve funding will keep this program operating until November 8, 2013. The USOR will issue some furloughs but will keep a skeleton crew on board to serve individuals who are more vulnerable.

In response to a question from Rep. Briscoe, Mr. Thelin responded that the program served 31,000 individuals last year, and at any given time, the program serves an average of 20,000 individuals. Currently the program has a staff of about 285 people.

Utah National Guard

Brigadier General Dallen Atack, Assistant Adjutant General, Utah National Guard, pointed out that 90 percent of the National Guard's budget is federally reimbursed and that the shutdown had caused some serious issues with the National Guard's state budget. He indicated that the federal government would probably pay or reimburse the UNG for operation and maintenance costs but he did not think that this would be the case for personnel costs. The UNG has 252 state employees, of which, 181 are currently furloughed. Of the 181 furloughed employees, 97 employees work directly in day to day operations. Because there are fixed costs associated with furloughed employees, the UNG is faced with a cash flow problem. To pay for these expenses, the UNG has had to use \$140,000 which it normally uses to match federal dollars in making armory improvements.

General Atack responded to questions from Rep. Chavez-Houck and Rep. Cosgrove.

Rep. Seelig asked if other state agencies have been impacted by the lapse in federal funds. Ms. Tennert explained that the State administers a number of federal programs that are forward funded from previous fiscal years and have monies to continue program operations. She said that as time goes on, some of these programs could be impacted as well.

Utah State Office of Education

State Superintendent Martell Menlove, USOE, discussed the Child Nutrition Program. The USOE receives about \$18 million a month from the USDA to reimburse providers of free school lunches. Superintendent Menlove believed that the USOE has enough money in its budget to reimburse those entities through the end of October. As of last Friday, the USOE learned that the USDA may continue to fund this program.

Rep. Briscoe recalled some statistics that indicate about 60,000 to 70,000 students in non-public school settings receive free meals through the Child Nutrition Program. Superintendent Menlove confirmed that those numbers were correct.

Sen. Robles had some concern for the day care providers and the impact the loss in federal funds might have on their businesses.

Co-Chair Brown indicated that Agenda Item 4 - Consideration of Special Session Bills would be heard later on in the meeting. He explained that the special session bills were in the process of being prepared, and upon completion, would be brought to the committee for consideration.

4. USTAR Legislative Audit [Agenda Item 8]

Mr. Rick Coleman, Deputy Auditor General and Audit Manager, Office of the Legislative Auditor General (OLAG), introduced Mr. Brian Dean, Audit Supervisor, and Ms. Candace Warr, Audit Team Member.

Mr. Dean presented “A Performance Audit of the Utah Science Technology and Research Initiative (USTAR).” He stated that the purpose of the USTAR audit was “to review monies provided, validate outcome performance, and evaluate the efficiency and effectiveness of operations.”

During the 2006 General Session, the Legislature passed S.B. 75 creating USTAR. Mr. Dean explained that the mission of USTAR is twofold: 1) to enhance economic development in the state; and 2) to leverage state dollars to enhance Utah’s research universities through investment in research teams and buildings, resulting in the commercialization of innovative technologies. Ultimately, the USTAR initiative is intended to enhance and leverage state resources by delivering more technology-based start-up firms, high paying jobs, and business activity with an associated expansion of the state tax base.

Mr. Dean reported that from FY 2007 through FY 2014, the public has invested \$334 million in the USTAR Initiative. The Legislature appropriated \$134.2 million in General Fund, \$33 million in federal ARRA funds to replace cuts in General Fund appropriations, and \$166.5 million for construction bonds

for the U of U and USU USTAR buildings. Mr. Dean commented that given the significant public investment, accurate reporting and strong management is needed.

Mr. Dean discussed the following audit findings: 1) USTAR's Reported Return on Investment is overstated and inaccurate; 2) USTAR should improve oversight of research team funding; 3) USTAR management has not sufficiently overseen research buildings; 4) USTAR's management of outreach can improve; and 5) USTAR administration and governance of operations needs to improve.

Mr. Dean also identified fifteen recommendations listed on pages 22, 34, 43, 51, and 59 of the audit report.

Sen. Mayne expressed her concern about the audit findings stating that the report has given her insight on how she will deal with USTAR in the future.

Sen. Jones commented that she has always been an advocate for USTAR and will continue to be. She asked for some feedback from USTAR.

USTAR Response

Mr. Ted McAleer, Executive Director, USTAR, thanked the auditors for the detailed "hard hitting" report. He felt that this outside perspective is absolutely critical to the improvement of the USTAR program. Mr. McAleer indicated that within the last 45 days, he has hired Mr. Jim Grover as the new finance manager, who is very good at process improvement and paying attention to detail. Since he has come on board, USTAR has made significant progress toward addressing the audit recommendations.

Mr. McAleer mentioned major program successes that included infrastructure at the University of Utah and Utah State University, recruitment of entrepreneurial-minded research faculty, and technology outreach programs. He reassured the committee that USTAR would deliver on all of the fifteen recommendations that were highlighted throughout the report.

Sen. Jones commented that every citizen in Utah would like to see an accounting of this program. She also asked how other states that have the equivalent of the USTAR are doing and if we can learn from their programs. McAleer indicated that there are several states back east that have implemented USTAR-type programs, and USTAR is going to compare its policies and procedures with the way those states implement their programs.

Rep. Wilson asked Mr. McAleer to respond to the reported job numbers. He also commented that USTAR will have some heavy lifting to do over the next couple of months to prove that this concept worth continuing to invest hundreds of millions of dollars in.

Rep. Dee expressed his dismay and suggested that USTAR make the time to address each of the fifteen recommendations. He wanted to see some real improvement being made in each one of those areas, and he recommended that USTAR report back to the EAC in the upcoming meetings.

Rep. Chavez-Houck was interested in knowing where USTAR was going with systemic reform and making sure that the Governing Authority is providing USTAR with the support it needs to be responsive and accountable to the EAC.

Rep. Ipson was troubled on the overstatement of reported jobs.

Sen. Robles asked what entity is responsible for USTAR. Mr. Dean explained that USTAR is a unique agency, which is located within the Governor's Office of Economic Development (GOED), but it is not part of GOED. Policy oversight of USTAR rests with the Governing Authority (GA). Since USTAR is a state agency, she questioned why there has not been more careful scrutiny. Mr. McAleer explained that the GA meets with USTAR management on a monthly basis to go over the progress of the program.

Mr. Dean explained that most of the audit recommendations are geared toward management, which is responsible for USTAR operations.

Rep. Briscoe wondered if we have been too optimistic in thinking we can take great ideas and make them actually work. Mr. McAleer responded that the National Governor's Association is very much in favor of developing innovation capacity. However, building these projects takes time. Mr. McAleer felt that USTAR had made some significant progress in this regard.

Rep. Cosgrove understood the importance of innovation capacity and the incubation process for development, but he didn't appreciate the fact that USTAR's reported revenues were overstated and inaccurate. He requested that USTAR follow through on every one of the audit recommendations.

Sen. Hillyard had some concern about the accuracy of what was being reported. He said that accuracy in reporting is far more important for the overall success of the USTAR program than what is being done to generate jobs.

Mr. McAleer restated that he will personally follow-up on each of the fifteen recommendations with detail, accuracy, and transparency, and report back to the EAC.

5. Revenue Update

Dr. Andrea Wilko, Chief Economist, and Dr. Thomas Young, Economist, LFA presented "Revenue Update" for October 15, 2013.

Utah ended FY 2013 with a \$242 million General and Education Fund revenue surplus. After expenditure adjustments and transfers to the Education Rainy Day Fund, the budget surplus is \$122 million, all of which is in the Education Fund. The General Fund ended FY 2013 with a \$15 million revenue deficit, and the Transportation Fund ended FY 2013 \$7 million above target.

In FY 2014, the General and Education Funds revenues could range between \$130 million below to \$70 million above the May 2013 estimates. The General Fund is likely to be within a range of \$60 million below to \$10 million above the May target, and the Education Fund could be within a range of \$70 million below to \$60 million above target. The Transportation Fund is expected to come in between \$5 million below and \$5 million above the current FY 2014 target.

Dr. Wilko, referencing the chart, "Net Final Pays," on page 1 of the report, pointed out that net final payments in FY 2013 were well above trend line, \$500 million as compared to \$250 million in FY 2012. She stated that most of this revenue is one-time and not to expect the same kind of net final payments in FY 2014.

Dr. Wilko indicated that the revenue numbers do not take into account any long term impact from federal closures. Due to the timing of the report, the Revenue Assumptions Working Group (RAWG) had not updated the economic indicators to reflect those closures. The RAWG will provide a point forecast in December, which will take into account the most recent federal changes and any updates to the economy.

Rep. Briscoe, referring to the chart, "Taxable Sales by Major Sector," on page 2 of the report, inquired about the negative year-over-year percentage difference in taxable sales for business investment in CY 2013 as compared to CY 2012. Dr. Wilko said that because there is so much uncertainty on the federal front, a lot of businesses are choosing to delay expansion or expenditures. She pointed out that this holds true for retail sales as well.

Mr. Ball, referencing the chart, "Combined General and Education Fund Revenue," on page 1 of the report, pointed out that there is greater likelihood that combined revenues will be below the FY 2014 estimate than above the estimate. He reminded the committee that in FY 2013 people paid their taxes early due to federal tax reform, consumer confidence is down, and last year, the General Fund was short by \$15 million. This may be a fair warning on what to expect in the next General Session.

6. Actuarial Report on Other Post-employment Benefits (OPEB) Liability

Mr. John Reidhead, Director, Division of Finance, introduced Mr. Bob Russell, Actuary, HayGroup, Inc.

Mr. Russell discussed the slide presentation, "State of Utah Employee Other Postemployment Benefit Plan December 31, 2012 Actuarial Valuation." The full report was available to committee members behind Tab 6 in the committee binders and posted on the legislative website at www.le.utah.gov.

Mr. Russell gave an overview of Utah's OPEB plan provisions. He also discussed plan demographics, key valuation results, and valuation methods and actuarial assumptions.

Report findings show that the present value of future benefits, the actuarial accrued liability, and the normal cost have decreased significantly since the prior valuation. The Annual Required Contribution (ARC) and the Annual OPEB Cost have both dropped by more than \$7 million. The key reasons for the decreases are as follows: 1) decrease in number of active employees who were hired prior to 2006; 2) decrease in average Program I balances for remaining active employees; 3) the average per-capita medical and drug claims are lower; and 4) decrease in the starting healthcare trend assumptions.

Mr. Russell noted that under GASB 45, the amortization period for the Unfunded Actuarial Accrued Liability was changed from 25 years to 20 years. In addition, the liabilities were calculated using a discount rate of 4.5 percent because the plan is only partially funded.

Mr. Russell stated that the OPEB plan has now become 37 percent funded vs. 22 percent in prior valuations. The ending Net OPEB Obligation/(Asset) was (\$6,046,766) as of June 30, 2013.

7. Fund of Funds Report [Agenda Item 9]

Mr. Brett Jepsen introduced himself as the new Managing Director of the Utah Fund of Funds (UFOF). He provided an update on the progress of the UFOF or the "Fund" in fulfilling its legislative mandate.

According to the “Utah Capital Investment, 2012 Annual Report,” the Fund has generated positive results in both Utah state economic development and investment returns.

Mr. Jepsen highlighted a number of UFOF accomplishments. To date, 70 Utah companies have received direct investment from UFOF portfolio funds; \$747 million was invested directly by UFOF partner funds in Utah companies; 2,700 new Utah jobs were created; and \$37 million in new state tax revenues were generated.

Mr. Jepsen pointed out that the UFOF has not cost the State any money.

Mr. Ball asked if the UFOF is accruing any liabilities that the State may have to pay in the near future. Mr. Jepsen stated that the Fund portfolio is very healthy. However, because financing terms in the debt market were fairly expensive, the possibility exists that a cash flow shortage may occur ranging from \$0 up to \$12 million, starting in 2017 through 2020. To rectify this situation, the UFOF is hoping to reserve \$3 million a year up to 2017.

Mr. Matt Peterson, Vice President, UFOF, clarified that the reserve will act as a rainy day fund in the unlikely event that there is a shortfall.

8. Consideration of Special Session Bills [Agenda Item 4]

Mr. Ball referred the committee to the “Overview of 2013 Second Special Session Bills Utah State Legislature” behind Tab 4.

Mr. Ball summarized H.B. 2001, “State Employee Benefit Amendments.” This bill grants the Utah National Guard, the Utah State Office of Rehabilitation, the Utah Labor Commission, and the Division of Family Health and Preparedness within the Department of Health, authority to use existing funds to pay fixed cost benefits and holiday leave benefits for state employees furloughed due to a reduction in federal funding. The bill repeals the authorization on December 1, 2013.

Rep. Dee explained that under the Department of Human Resource Management rules, the State is required to pay these benefits. He commented that these funds have already been appropriated and H.B. 2001 will allow the money to flow.

Sen. Davis asked what happens if the federal shutdown continues beyond December 1, 2013. Rep. Dee stated that if needed, this issue could be revisited in November on Interim Day.

MOTION: Rep. Dee moved to approve H.B. 2001, “State Employee Benefit Amendments.” The motion passed unanimously with Sen. Stevenson and Rep. Wilson absent for the vote.

Mr. Ball summarized H.B. 2002, “Funding of Federal Programs.” This bill authorizes the Utah State Board of Education to use state funds to pay for Child Nutrition Programs to offset the loss of federal funding. The bill repeals the authorization on December 1, 2013.

MOTION: Rep. Dee moved to approve H.B. 2002, “Funding of Federal Programs.” The motion passed unanimously with Sen. Stevenson and Rep. Wilson absent for the vote.

Mr. Ball summarized S.B. 2001, "National Park Funding." This bill authorizes funds in the Sovereign Lands Management Account to be used for the ongoing operation of national parks, national monuments, and national recreation areas within the state. The bill appropriates \$8,661,700 in FY 2014, to the Department of Natural Resources - Parks and Recreation Capital Budget, as a one-time appropriation, from the Sovereign Lands Management Restricted Account. The bill repeals the authorization on December 2, 2013.

Mr. Ball and Mr. Ivan Djambov, Fiscal Analyst, LFA, and Sen. Adams and Rep. Dee responded to committee questions about this bill.

MOTION: Sen. Adams moved to pass S.B. 2001, "National Park Funding" out with a favorable recommendation. The motion passed unanimously with Sen. Stevenson and Rep. Wilson absent for the vote.

9. Other Business

Co-Chair Brown indicated that Agenda Item 7 - Performance Note Follow-up would be heard in the November EAC meeting. In addition, Agenda Items 10, 11, and 12, which are summarized in the committee binders, would be bypassed. Co-Chair Brown encouraged committee members to read the following reports: "Office of the Inspector General of Medicaid Services Annual Report," "Utah State Building Board Proposed New Capital Improvement and Prioritized Scoring Process," and "2013 Jail Rate Calculation."

Co-Chair Brown pointed out that Agenda Item 7, Performance Note Follow-up, had been skipped more than once due to time. He thanked the staff of the Office of the Legislative Auditor General for their patience.

Speaker Lockhart noticed that Mr. Lee Wyckoff, Medicaid Inspector General (OIG), had been in attendance for the entire meeting and she expressed her appreciation for his willingness to discuss the OIG Annual Report.

Sen. Hillyard complimented staff secretary Greta Rodebush for the thoroughness of her minutes.

MOTION: Sen. Hillyard moved to adjourn. The motion passed unanimously.

Co-Chair Brown adjourned the meeting at 4:03 p.m.